

Message Text

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ACTION EB-11

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FM AMEMBASSY LISBON

TO SECSTATE WASHDC IMMEDIATE 7946

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EO 11652: N/A

TAGS: ETRN, PO

SUBJECT: CIVAIR - PAN AM REQUEST FOR SERVICE AT LAJES

REFS: A) STATE 85269, B) STATE 70940

1. WE SUGGEST THAT TEXT PROPOSED BY REF A BE AMENDED TO READ AS FOLLOWS: A. REGRET THAT GOP HAS SO FAR NOT FOUND IT POSSIBLE TO AUTHORIZE PAN AMERICAN WORLD AIRWAYS TO UTILIZE LAJES AIRPORT AS TAP HAS BEEN DOING FOR TWO YEARS. SECTION II OF THE ANNEX TO THE AIR TRANSPORT AGREEMENT BETWEEN THE UNITED STATES AND PORTUGAL, AS AMENDED IN 1947, STATES THAT " THERE SHALL BE A FAIR AND EQUAL OPPORTUNITY FOR THE AIRLINES OF THE TWO NATIONS TO OPERATE ON ANY ROUTE BETWEEN THEIR RESPECTIVE TERRITORIES COVERED BY THE AGREEMENT AND THIS ANNEX". IN ADDITION, THE SAME SECTION STATES " THAT IN THE OPERATION BY THE AIR CARRIERS OF EITHER GOVERNMENT OF THE TRUNK SERVICES DESCRIBED IN THIS ANNEX, THE INTEREST OF THE AIR CARRIERS OF THE OTHER GOVERNMENT SHALL BE TAKEN INTO CONSIDERATION SO AS NOT TO AFFECT UNDULY THE SERVICES WHICH THE LATTER PROVIDES ON ALL OR PART OF THE SAME ROUTES." ACCORDINGLY, AS WAS POINTED OUT IN THE EMBASSY' S NOTE OF FEBRUARY 20, THE USG FIRMLY BELIEVES THAT THE INAUGURATION OF OPERATIONS

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VIA LAJES AIRPORT BY TAP CREATED FOR US CARRIERS THE COROLLARY RIGHT TO SERVE THAT AIRPORT. THAT IS PARTICULARLY SO IF, AS HAS CLEARLY BEEN THE CASE, THE COMMERCIAL OPERATION OF TAP AT LAJES RESULTS IN A SIGNIFICANT DIVERSION FROM THE TRAFFIC NOW HANDLED THROUGH SANTA MARIA BY US DESIGNATED AIRLINES. AS WAS POINTED OUT IN THE EMBASSY' S NOTE OF MARCH 26, THE UNITED STATES IS AWARE OF NO MILITARY CONSIDERATION PERMITTING ONE COMMERCIAL AIRLINE TO OPERATE THROUGH LAJES BUT NOT ANOTHER.

B. (NO CHANGE FROM TEXT PROPOSED REF A.

C. IF THE PORTUGUESE AUTHORITIES ARE NOT IN A POSITION TO AUTHORIZE US CARRIER COMMERCIAL SERVICE THROUGH LAJES IN COMPLIANCE WITH THE PROVISIONS OF THE US PORTUGAL AIR TRANSPORT AGREEMENT AS WELL AS WITH THE CLEAR INTENT OF THE CONDITIONS SET FORTH BY THE USG IN ITS NOTE OF MARCH 19, 1971, THE USG WILL HAVE TO CONSIDER IMPOSING SOME TYPE OF RECIPROCAL, ALTHOUGH NOT NECESSARILY IDENTICAL, RESTRAINTS ON ACTIVITIES OF TAP IN THE UNITED STATES MARKET.

2. THE PRINCIPAL CHANGE SUGGESTED IN PARA. 1. A. ABOVE IS TO REFER TO PARAGRAPHS 2 AND 3 OF SECTION II OF THE ANNEX (AS AMENDED IN 1947) TO THE BILATERAL AGREEMENT. REFERENCE TO SPECIFIC PASSAGES OF THE AGREEMENT SEEM NEEDED TO STRENGTHEN THE LEGAL POSITION ASSUMED IN THE NOTE, PARTICULARLY THAT IN PARA C WHICH TALKS ABOUT " COMPLIANCE WITH THE PROVISIONS
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*** Current Classification *** LIMITED OFFICIAL USE

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